

REFERENCE TITLE: sex offenders; registration; electronic identity

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

# HB 2734

Introduced by  
Representative Robson

AN ACT

AMENDING SECTIONS 13-3821, 13-3822 AND 13-3827, ARIZONA REVISED STATUTES;  
RELATING TO SEX OFFENDER REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3821, Arizona Revised Statutes, is amended to  
3 read:

4 13-3821. Persons required to register; procedure;  
5 identification card; definitions

6 A. A person who has been convicted of a violation or attempted  
7 violation of any of the following offenses or who has been convicted of an  
8 offense committed in another jurisdiction that if committed in this state  
9 would be a violation or attempted violation of any of the following offenses  
10 or an offense that was in effect before September 1, 1978 and that, if  
11 committed on or after September 1, 1978, has the same elements of an offense  
12 listed in this section or who is required to register by the convicting  
13 jurisdiction, within ten days after the conviction or within ten days after  
14 entering and remaining in any county of this state, shall register with the  
15 sheriff of that county:

16 1. Unlawful imprisonment pursuant to section 13-1303 if the victim is  
17 under eighteen years of age and the unlawful imprisonment was not committed  
18 by the child's parent.

19 2. Kidnapping pursuant to section 13-1304 if the victim is under  
20 eighteen years of age and the kidnapping was not committed by the child's  
21 parent.

22 3. Sexual abuse pursuant to section 13-1404 if the victim is under  
23 eighteen years of age.

24 4. Sexual conduct with a minor pursuant to section 13-1405.

25 5. Sexual assault pursuant to section 13-1406.

26 6. Sexual assault of a spouse if the offense was committed before  
27 August 12, 2005.

28 7. Molestation of a child pursuant to section 13-1410.

29 8. Continuous sexual abuse of a child pursuant to section 13-1417.

30 9. Taking a child for the purpose of prostitution pursuant to section  
31 13-3206.

32 10. Child prostitution pursuant to section 13-3212.

33 11. Commercial sexual exploitation of a minor pursuant to section  
34 13-3552.

35 12. Sexual exploitation of a minor pursuant to section 13-3553.

36 13. Luring a minor for sexual exploitation pursuant to section 13-3554.

37 14. Sex trafficking of a minor pursuant to section 13-1307.

38 15. A second or subsequent violation of indecent exposure to a person  
39 under fifteen years of age pursuant to section 13-1402.

40 16. A second or subsequent violation of public sexual indecency to a  
41 minor under the age of fifteen years pursuant to section 13-1403,  
42 subsection B.

43 17. A third or subsequent violation of indecent exposure pursuant to  
44 section 13-1402.

1       18. A third or subsequent violation of public sexual indecency pursuant  
2 to section 13-1403.

3       19. A violation of section 13-3822 or 13-3824.

4       B. Before the person is released from confinement the state department  
5 of corrections in conjunction with the department of public safety and each  
6 county sheriff shall complete the registration of any person who was  
7 convicted of a violation of any offense listed under subsection A of this  
8 section. Within three days after the person's release from confinement, the  
9 state department of corrections shall forward the registered person's records  
10 to the department of public safety and to the sheriff of the county in which  
11 the registered person intends to reside. Registration pursuant to this  
12 subsection shall be consistent with subsection E of this section.

13       C. Notwithstanding subsection A of this section, the judge who  
14 sentences a defendant for any violation of chapter 14 or 35.1 of this title  
15 or for an offense for which there was a finding of sexual motivation pursuant  
16 to section 13-118 may require the person who committed the offense to  
17 register pursuant to this section.

18       D. The court may require a person who has been adjudicated delinquent  
19 for an act that would constitute an offense specified in subsection A or C of  
20 this section to register pursuant to this section. Any duty to register  
21 under this subsection shall terminate when the person reaches twenty-five  
22 years of age.

23       E. A person who has been convicted of or adjudicated delinquent and  
24 who is required to register in the convicting state for an act that would  
25 constitute an offense specified in subsection A or C of this section and who  
26 is not a resident of this state shall be required to register pursuant to  
27 this section if the person is either:

28       1. Employed full-time or part-time in this state, with or without  
29 compensation, for more than fourteen consecutive days or for an aggregate  
30 period of more than thirty days in a calendar year.

31       2. Enrolled as a full-time or part-time student in any school in this  
32 state for more than fourteen consecutive days or for an aggregate period of  
33 more than thirty days in a calendar year. For the purposes of this  
34 paragraph, "school" means an educational institution of any description,  
35 public or private, wherever located in this state.

36       F. Any duty to register under subsection D or E of this section for a  
37 juvenile adjudication terminates when the person reaches twenty-five years of  
38 age.

39       G. The court may order the termination of any duty to register under  
40 this section on successful completion of probation if the person was under  
41 eighteen years of age when the offense for which the person was convicted was  
42 committed.

43       H. At the time of registering, the person shall sign or affix an  
44 electronic fingerprint to a statement giving such information as required by  
45 the director of the department of public safety, including all names by which

1 the person is known, ANY ELECTRONIC MAIL ADDRESS INFORMATION, ANY INSTANT  
2 MESSAGE, CHAT OR OTHER INTERNET COMMUNICATION NAME OR ANY OTHER IDENTITY  
3 INFORMATION THAT THE PERSON USES OR INTENDS TO USE. The sheriff shall  
4 fingerprint and photograph the person and within three days thereafter shall  
5 send copies of the statement, fingerprints and photographs to the department  
6 of public safety and the chief of police, if any, of the place where the  
7 person resides. The information that is required by this subsection shall  
8 include the physical location of the person's residence and the person's  
9 address. If the person has a place of residence that is different from the  
10 person's address, the person shall provide the person's address, the physical  
11 location of the person's residence and the name of the owner of the residence  
12 if the residence is privately owned and not offered for rent or lease. If  
13 the person receives mail at a post office box, the person shall provide the  
14 location and number of the post office box. If the person does not have an  
15 address or a permanent place of residence, the person shall provide a  
16 description and physical location of any temporary residence and shall  
17 register as a transient not less than every ninety days with the sheriff in  
18 whose jurisdiction the transient is physically present.

19 I. On the person's initial registration and every year after the  
20 person's initial registration, the person shall CONFIRM ANY ELECTRONIC MAIL  
21 ADDRESS INFORMATION, ANY INSTANT MESSAGE, CHAT OR OTHER INTERNET  
22 COMMUNICATION NAME OR ANY OTHER IDENTITY INFORMATION THAT THE PERSON USES OR  
23 INTENDS TO USE AND SHALL obtain a new nonoperating identification license or  
24 a driver license from the motor vehicle division in the department of  
25 transportation and shall carry a valid nonoperating identification license or  
26 a driver license. Notwithstanding sections 28-3165 and 28-3171, the license  
27 is valid for one year from the date of issuance, and the person shall submit  
28 to the department of transportation proof of the person's address and place  
29 of residence. The motor vehicle division shall annually update the person's  
30 address and photograph and shall make a copy of the photograph available to  
31 the department of public safety or to any law enforcement agency. The motor  
32 vehicle division shall provide to the department of public safety daily  
33 address updates for persons required to register pursuant to this section.

34 J. Except as provided in subsection E or K of this section, the clerk  
35 of the superior court in the county in which a person has been convicted of a  
36 violation of any offense listed under subsection A of this section or has  
37 been ordered to register pursuant to subsection C or D of this section shall  
38 notify the sheriff in that county of the conviction within ten days after  
39 entry of the judgment.

40 K. Within ten days after entry of judgment, a court not of record  
41 shall notify the arresting law enforcement agency of an offender's conviction  
42 of a violation of section 13-1402. Within ten days after receiving this  
43 information, the law enforcement agency shall determine if the offender is  
44 required to register pursuant to this section. If the law enforcement agency  
45 determines that the offender is required to register, the law enforcement

1 agency shall provide the information required by section 13-3825 to the  
2 department of public safety and shall make community notification as required  
3 by law.

4 L. A person who is required to register pursuant to this section  
5 because of a conviction for the unlawful imprisonment of a minor or the  
6 kidnapping of a minor is required to register, absent additional or  
7 subsequent convictions, for a period of ten years from the date that the  
8 person is released from prison, jail, probation, community supervision or  
9 parole and the person has fulfilled all restitution obligations.  
10 Notwithstanding this subsection, a person who has a prior conviction for an  
11 offense for which registration is required pursuant to this section is  
12 required to register for life.

13 M. A person who is required to register pursuant to this section and  
14 who is a student at a public or private institution of postsecondary  
15 education or who is employed, with or without compensation, at a public or  
16 private institution of postsecondary education or who carries on a vocation  
17 at a public or private institution of postsecondary education shall notify  
18 the county sheriff having jurisdiction of the institution of postsecondary  
19 education. The person required to register pursuant to this section shall  
20 also notify the sheriff of each change in enrollment or employment status at  
21 the institution.

22 N. At the time of registering, the sheriff shall secure a sufficient  
23 sample of blood or other bodily substances for deoxyribonucleic acid testing  
24 and extraction from a person who has been convicted of an offense committed  
25 in another jurisdiction that if committed in this state would be a violation  
26 or attempted violation of any of the offenses listed in subsection A of this  
27 section or an offense that was in effect before September 1, 1978 and that,  
28 if committed on or after September 1, 1978, has the same elements of an  
29 offense listed in subsection A of this section or who is required to register  
30 by the convicting jurisdiction. The sheriff shall transmit the sample to the  
31 department of public safety.

32 O. For the purposes of this section:

33 1. "Address" means the location at which the person receives mail.

34 2. "Residence" means the person's dwelling place, whether permanent or  
35 temporary.

36 Sec. 2. Section 13-3822, Arizona Revised Statutes, is amended to read:

37 13-3822. Notice of moving from place of residence or change of  
38 name or electronic information; forwarding of  
39 information; definitions

40 A. Within seventy-two hours, excluding weekends and legal holidays,  
41 after moving from the person's residence within a county or after changing  
42 the person's name, a person who is required to register under this article  
43 shall inform the sheriff in person and in writing of the person's new  
44 residence, address or new name. If the person moves to a location that is  
45 not a residence and the person receives mail anywhere, including a post

1 office box, the person shall notify the sheriff of the person's address. If  
 2 the person does not have an address or a permanent place of residence, the  
 3 person shall register as a transient not less than every ninety days with the  
 4 sheriff in whose jurisdiction the transient is physically present. Within  
 5 three days after receipt of such information, the sheriff shall forward it to  
 6 the department of public safety and the chief of police, if any, of the place  
 7 from which the person moves, and shall forward a copy of the statement,  
 8 fingerprints and photograph of the person to the chief of police, if any, of  
 9 the place to which the person has moved.

10 B. Within seventy-two hours after a person moves from a county in  
 11 which the person is registered, the person shall notify in writing the  
 12 sheriff of the county from which the person moves. If the person is subject  
 13 to community notification requirements, the sheriff of the county from which  
 14 the person moves shall advise the local law enforcement agency of the county  
 15 to which the person moves of the move. If the person moves out of this  
 16 state, the sheriff of the county from which the person moves shall advise the  
 17 local law enforcement agency in the jurisdiction to which the person moves.  
 18 The local law enforcement agency shall contact the department of public  
 19 safety following ten days after being notified to determine if the person has  
 20 reregistered. If the person has not reregistered, the local law enforcement  
 21 agency shall notify the local law enforcement agency in the county in which  
 22 the person last resided. Any law enforcement agency in the county in which  
 23 the person last resided shall conduct an investigation and shall submit a  
 24 report to the appropriate county attorney.

25 C. WITHIN SEVENTY-TWO HOURS, EXCLUDING WEEKENDS AND LEGAL HOLIDAYS,  
 26 AFTER A PERSON MAKES ANY CHANGE TO THE PERSON'S ELECTRONIC MAIL ADDRESS  
 27 INFORMATION, ANY INSTANT MESSAGE, CHAT OR OTHER INTERNET COMMUNICATION NAME  
 28 OR ANY OTHER IDENTITY INFORMATION THAT THE PERSON USES OR INTENDS TO USE, A  
 29 PERSON WHO IS REQUIRED TO REGISTER UNDER THIS ARTICLE SHALL NOTIFY THE  
 30 SHERIFF IN WRITING OF THESE CHANGES. WITHIN THREE DAYS AFTER RECEIPT OF THE  
 31 INFORMATION, THE SHERIFF SHALL FORWARD IT TO THE DEPARTMENT OF PUBLIC  
 32 SAFETY. WITHIN THREE DAYS AFTER RECEIPT OF THE INFORMATION, THE DEPARTMENT  
 33 OF PUBLIC SAFETY SHALL UPDATE THE PERSON'S INFORMATION AND THE INTERNET SEX  
 34 OFFENDER WEBSITE.

35 ~~C.~~ D. For the purposes of this section:

- 36 1. "Address" means the location at which the person receives mail.
- 37 2. "Residence" means the person's dwelling place, whether permanent or  
 38 temporary.

39 Sec. 3. Section 13-3827, Arizona Revised Statutes, is amended to read:

40 ~~13-3827.~~ Internet sex offender website; investigation of  
 41 records; immunity

42 A. The department of public safety shall establish and maintain an  
 43 internet sex offender ~~web-site~~ WEBSITE for offenders whose risk assessment  
 44 has been determined to be a level two or level three. The purpose of the

1 internet sex offender ~~web-site~~ WEBSITE is to provide sex offender information  
2 to the public.

3 B. The internet sex offender ~~web-site~~ WEBSITE shall include the  
4 following information for each convicted sex offender in this state who is  
5 required to register pursuant to section 13-3821:

6 1. The offender's name, address and age.

7 2. A current photograph.

8 3. The offense committed and notification level pursuant to section  
9 13-3826, subsection E, if a risk assessment has been completed pursuant to  
10 section 13-3825.

11 C. The department of public safety shall annually update on the ~~web~~  
12 ~~site~~ WEBSITE the name, address and photograph of each sex offender.

13 D. THE DEPARTMENT OF PUBLIC SAFETY SHALL MAINTAIN A SEPARATE SEARCH  
14 FUNCTION ON THE WEBSITE THAT CONTAINS ANY ELECTRONIC MAIL ADDRESSES, ANY  
15 INSTANT MESSAGE, CHAT OR OTHER COMMUNICATION NAMES OR ANY OTHER IDENTITY  
16 INFORMATION CURRENTLY USED BY SEX OFFENDERS WHOSE RISK ASSESSMENTS HAVE BEEN  
17 DETERMINED TO BE A LEVEL TWO OR LEVEL THREE. THIS INFORMATION SHALL NOT BE  
18 PUBLICLY CONNECTED TO THE INDIVIDUAL IDENTITIES OF REGISTERED SEX OFFENDERS  
19 ON THE WEBSITE.

20 E. THE DEPARTMENT OF PUBLIC SAFETY MAY DISSEMINATE A REGISTERED SEX  
21 OFFENDER'S ELECTRONIC MAIL ADDRESS INFORMATION, INSTANT MESSAGE, CHAT OR  
22 OTHER INTERNET COMMUNICATION NAME OR OTHER IDENTITY INFORMATION TO A BUSINESS  
23 OR ORGANIZATION THAT OFFERS ELECTRONIC COMMUNICATION SERVICES FOR COMPARISON  
24 WITH INFORMATION THAT IS HELD BY THE REQUESTING BUSINESS OR ORGANIZATION.  
25 THE REQUESTING BUSINESS OR ORGANIZATION SHALL NOTIFY THE DEPARTMENT OF PUBLIC  
26 SAFETY WHEN A COMPARISON OF THE INFORMATION INDICATES THAT A REGISTERED SEX  
27 OFFENDER'S ELECTRONIC MAIL ADDRESS INFORMATION, INSTANT MESSAGE, CHAT OR  
28 OTHER INTERNET COMMUNICATION NAME OR OTHER IDENTITY INFORMATION IS BEING USED  
29 ON THE BUSINESS'S OR ORGANIZATION'S SYSTEM. THE REQUESTING BUSINESS OR  
30 ORGANIZATION SHALL NOT FURTHER DISSEMINATE THE INFORMATION.

31 ~~D.~~ F. The motor vehicle division of the department of transportation  
32 shall send copies of each sex offender's nonoperating identification license  
33 or driver license photograph to the department of public safety for inclusion  
34 on the sex offender ~~web-site~~ WEBSITE.

35 ~~E.~~ G. The department of public safety shall annually verify the  
36 addresses of all sex offender registration records contained within the  
37 Arizona criminal justice information system. Before including the address of  
38 a sex offender on the ~~web-site~~ WEBSITE, the department of public safety shall  
39 confirm that the address is correct. To confirm a sex offender's address,  
40 the department shall conduct a search of the Arizona criminal justice  
41 information system. If this search does not provide the necessary  
42 confirmation, the department shall use alternative public and private sector  
43 resources that are currently used for criminal investigation purposes to  
44 confirm the address. The department of public safety is prohibited from  
45 using or releasing the information from the alternative public and private

1 sector resources except pursuant to this section. A custodian or public or  
2 private sector resource that releases information pursuant to this subsection  
3 is not civilly or criminally liable in any action alleging a violation of  
4 confidentiality.

5 ~~F.~~ H. The department of public safety may petition the superior court  
6 for enforcement of subsection ~~E~~ G of this section if a public or private  
7 sector resource refuses to comply. The court shall grant enforcement if the  
8 department has reasonable grounds to believe the records sought to be  
9 inspected are relevant to confirming the identity and address of a sex  
10 offender.

11 ~~G.~~ I. A person who provides or fails to provide information required  
12 by this section is not civilly or criminally liable unless the act or  
13 omission is wanton or wilful.